

REMARKS

Claims 12-22 are pending and have been restricted under 35 U.S.C. § 121 into the following groups:

Group I: Claims 12-19 and 22, directed to a peptide having at least about 75% amino acid homology with the sequence shown in SEQ ID NO:2;

Group II: Claim 20, directed to a peptide having the amino acid sequence shown in SEQ ID NO:5; and

Group III: Claim 21, directed to a peptide having the amino acid sequence shown in SEQ ID NO:6.

The Examiner requests that one of the groups of claims be elected for examination. Although the Restriction Requirement is traversed for the reasons set forth below, Applicants elect the claims of Group I, claims 12-19 and 22, for examination.

The Restriction Requirement is traversed with respect to the division of the claims of Group I from the claims of Groups II and III. Applicants respectfully submit that while Groups II and III are directed to a specific peptide of the invention (i.e., SEQ ID NO:5), as well as the peptide which further includes a secretion signal sequence (SEQ ID NO:6), Group I is directed to specific peptides (i.e., LysM, apf-life domains, glutamine rich region) which form the structural basis of SEQ ID NOS:5 and 6. Therefore, a thorough search of the claims of Groups I, II and III would likely reveal art relevant to the examination of the claims of the other groups because the peptides of Group I compose, in part, the sequences of Groups II and III. This is further indicated by the fact that all the sequences of Group I are incorporated into the sequences of Groups II and III. Thus, a search of the claims of Group I will, of necessity, reveal information relevant to the examination of the claims of Group II and III and, therefore, division of the claims into these groups would result in duplicative searches. Therefore, examination of the claims of Group I with the claims of Group II and III together should not be an undue burden on the Examiner.

Application No.: 10/576,982

The Examiner is invited to call the undersigned attorney if there are any questions. To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 502624 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

/David A. Gay/

David A. Gay
Registration No. 39,200

4370 La Jolla Village Drive, Suite 700
San Diego, CA 92122
Phone: 858.535.9001 DAG:DLR:llf
Facsimile: 858.597.1585
Date: April 16, 2008

**Please recognize our Customer No. 41552
as our correspondence address.**